

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

ESKER MARTIN, III

PLAINTIFF

v.

Case No. 4:20-cv-01399 KGB-JTK

ARMARK

DEFENDANT

ORDER

The Court has received Proposed Findings and Recommendations from United States Magistrate Judge Jerome T. Kearney (Dkt. No. 5). There have been no objections filed to the Proposed Findings and Recommendations, and the time to file objections has passed.

In the Proposed Findings and Recommendations, Judge Kearney recommends that the Court dismiss without prejudice the complaint filed by Esker Martin, III, for failure to comply with the Court's prior Order directing Mr. Martin either to submit the statutory filing fee or a completed *in forma pauperis* application within 30 days (Dkt. Nos. 5; 3). On November 25, 2020, when he filed his complaint, Mr. Martin submitted a motion for leave to proceed *in forma pauperis* that did not include the appropriate calculation sheet from the facility where Mr. Martin was detained (Dkt. No. 1). On May 11, 2021, Mr. Martin filed a calculation sheet completed by the facility where he is now incarcerated (Dkt. No. 9). This filing comes well after the 30 days granted by Judge Kearney in his Order for Mr. Martin to make this filing and includes no explanation from Mr. Martin as to the delay. The Court observes that, during that delay, Mr. Martin was released from custody and then returned to custody (Dkt. Nos. 6; 7).

After a review of the Proposed Findings and Recommendations, for these reasons, the Court adopts them in their entirety. Therefore, the Court dismisses without prejudice Mr.

Martin's complaint for failure to prosecute (Dkt. No. 2). The Court denies as moot Mr. Martin's motion to appoint counsel (Dkt. No. 8).

So ordered this 17th day of September, 2021.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is written in a cursive, flowing style. The first name "Kristine" is written with a capital 'K' and a dot over the 'i'. The last name "Baker" is written with a capital 'B' and a dot over the 'i'. The signature is positioned above a horizontal line.

KRISTINE G. BAKER
UNITED STATES DISTRICT JUDGE